9th March 1953]

Alleged theft of lead in connexion with Kozhikode Water-supply Scheme.

* 8 *Q.*—SRI M. NARAYANA KURUP: Will the Hon. the Minister for Health be pleased to state—

(*a*) whether there was any criminal prosecution against any Engineer connected with the execution of Kozhikode Protected Water-supply Scheme for alleged theft or misappropriation of large quantities of lead intended for the work; and

(*b*) whether the Government have taken any departmental action against any officer?

THE HON. SRI A. B. SHETTY :—" (*a*) & (*b*) The answer is in the affirmative."

SRI M. NARAYANA KURUP :—" May I know, Sir, what action has been taken? "

THE HON. SRI A. B. SHETTY :—" The Assistant Engineer has been kept under suspension. The Tribunal for Disciplinary Proceedings framed charges against him, conducted an enquiry, and has submitted a report. The report is under the consideration of the Government."

SRI M. NARAYANA KURUP :—" May I know, Sir, when the order of suspension was issued? "

THE HON. SRI A. B. SHETTY :—" He has been placed under suspension with effect from 25th March 1949."

SRI M. S. MOGRAL :—" Sir, may I know the amount of loss suffered by the Government? "

THE HON. SRI A. B. SHETTY :—" About Rs. 2,900."

SRI A. APPU :—" May I know, Sir, the total value of the lead stolen by the Engineer? "

MR. SPEAKER :—" The same question was put by Sri Mogral, and the Hon. Minister has answered that question. Questions are over."

[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—POINT OF ORDER *RE* SUMMONING OF THE LEGISLATURE BY THE GOVERNOR.

* SRI VAVILALA GOPALAKRISHNAIAH :—" On a point of order, Sir. అధ్యక్షా, ఈ శాసనసభ ఈవేళ సమావేశము అవడం Constitution ప్రకారం తప్పని నాఅభిప్రాయము. అందువల్ల ఈ సమావేశాన్ని ఆపివేసి, సరియైన procedure ప్రకారం తిరిగి సమావేశాన్ని పిలవడం సమంజసము, అందుకే నేను point of order ను raise చేస్తున్నాను. ఈ సమావేశములో మొట్టమొదట గవర్నరుగారు address చేయలేదు. Constitution లో 176 (1) article ప్రకారము, ఈ విధంగా ఉన్నది. 9 a.m.

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" Sir, Article 176 (1) of the Constitution says—

' At the commencement of the first session, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together, and inform the Legislature of the causes of its summons.'

" అందువల్ల ఈ సమావేశము ప్రారంభమైన ఈ వేళ గవర్నరు అడ్రసు చేయక పోతె ఇది చెల్లనేరదు. అయితే **Article 175** ప్రకారం ముందుగనే సమావేశము జరిగి గవర్నరు address చేయడం జరిగిందని సమాధానమిస్తారేమో అయితే అది తప్పని, unconstitutional అని చెప్పుచున్నాను. ఈ సమావేశం ఈ వేళ ప్రారంభమైంది.

" The letter sent to the Members of the Legislature requiring their attendance on the occasion of the Governor's Address runs as follows :—

' I am directed to say that the Governor will address both the Houses of the State Legislature assembled together at 4–30 p.m. on Saturday, the 7th March 1953, in the New Assembly Chamber, Government Estate, Mount Road, Madras, and that for that purpose he requires the attendance of the Members of both the Houses.'

" కనుక మొన్నటి సమావేశము **Article 175** (1) ప్రకారం పిలువబడినది. **Article 175** (1) ఈ ప్రకారంగా చెప్పుచున్నది.

" Article 175 (1) of the Constitution runs as follows :—

' The Governor may address the Legislative Assembly or, in the case of a State having a Legislative Council, either House of the Legislature of the State, or both Houses assembled together, and may, for that purpose, require the attendance of members.'

So, Sir, according to this Article, we were summoned to hear the Address of the Governor.

" అందువల్ల **Article 175** ప్రకారంగా మొన్న జరిగినది సామాన్యసమావేశముగాని, దీనికి సంబంధములేదు. 176 (1) ప్రకారంగా ఈ సమావేశము ప్రారంభమయ్యే ఈ రోజున summon చేయలేదు. దాని ప్రకారము ఇప్పుడు గవర్నరుగారి అడ్రెసు ఏమిలేదు. కనుక ఈ సమావేశము చెల్లడానికి వీలులేదు. అందుకుగాను ఈ point of order ను raise చేస్తున్నాను."

SRI P. RAMAMURTHI :—" Sir, Article 176 of the Constitution has been amended. Clause (2) of the Article says—

' Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address.'

The subsequent words in the above clause have been omitted by the Constitution (First Amendment) Act, 1951. But we, in this House, are governed by the Rules of Procedure as framed under Article 208 (2) of the Constitution. I do not think that those rules have been amended. Rule 4 (1) of those Rules relating to the procedure to be followed in the case of the Governor's Address reads as follows :—

' On the day appointed by the Governor for the commencement and holding of a session of the Legislature (not being a new Legislature), and in the case of a new Legislature at the first sitting of the Legislature after the election of the Speaker and the Chairman, the Governor will address both the Houses assembled together and inform the Legislature of the causes of its summons.'

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Rule 5 (1) of the above Rules of Procedure says—

'Any member of the Ministerialist party may then move that an address be presented to the Governor expressing the thanks of the Assembly for his speech.'

Now, Sir, unless these rules are amended . . ."

Mr. SPEAKER :—" The point of order raised by the hon. Member Sri Vavilala Gopalakrishnaiah is quite different. (Sri Ramamurthi was seen standing.) When the Chair is on its legs, all the hon. Members should resume their seats. The point of order that has been raised is this. The hon. Member says that the Governor has summoned the House under Article 175 of the Constitution instead of under Article 174. I believe I have correctly understood him. He says that this is unconstitutional and that the Governor should have summoned the Legislature under Article 174 instead of under Article 175. Whatever the Article of the Constitution under which the Governor acted, our session began day before yesterday.

" Article 212 (1) of the Constitution says—

'The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.'

Now, the Speaker has nothing to do with the summoning of the Legislature by the Governor either under Article 174 or under Article 175. But Article 212 (1) of the Constitution makes the above provision."

Sri K. VINAYAKAM :—" Does the Chair admit that there was any irregularity of procedure? (Laughter.) You are taking shelter under that clause, Sir."

Mr. SPEAKER :—" I do not say that. As far as the Chair is concerned, it is above party and politics. It is the Governor that calls for a session of the Legislature. The Chair has nothing to do with it."

* Sri K. VINAYAKAM :—" I am sorry, Sir, that the Chair has misunderstood the sentiment behind what I said. I never wanted to question the ruling. But is the Chair at least now convinced that there was some irregularity of procedure? "

Mr. SPEAKER :—" The contention of the hon. Member is this. The Governor should have summoned the Legislature under Article 174 (1). Instead of that, he has summoned it under Article 175 (1). That, he says, is a mistake."

Sri K. VINAYAKAM :—" What is the ruling of the Chair? "

Mr. SPEAKER :—" My ruling is this. The session commenced on 7th March. Granting that there has been a mistake about the Article of the Constitution, I say that under Article 212 (1) of the Constitution, the validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure."

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THE HON. SRI C. SUBRAMANIAM :—" Sir, Article 175 is the Article under which the Governor can summon the Members of both the Houses of the Legislature to sit jointly to hear his Address. It may be either at the commencement of a session or at some other time. Whatever it is, the power to summon both the Houses to sit together is conferred on the Governor only under Article 175. According to the provisions of this Article, the summoning of the Legislature by the Governor to hear his Address need not necessarily be at the commencement of a session, but it may even be at any other time. There is no provision other than that contained in Article 175, under which the Governor can summon the Members of both the Houses of the Legislature to sit together for the purpose of hearing his Address. So, whether it is at the commencement of a session or on any other occasion, the Governor has to summon the Legislature for a joint sitting only under Article 175. Accordingly, we have been summoned to sit jointly under Article 175. There has been no irregularity of procedure at all. I am afraid that there has been a misreading of the Article. It is quite unnecessary to debate upon it.''

* SRI VAVILALA GOPALAKRISHNAIAH :—" Sir, this time I want to speak in English. (Laughter.) The Hon. the Leader of the House said, Article 175 has been wrongly read. If they say the Constitution itself is wrong, I would not have any objection, but when the Constitution makes a provision under Article 176 also for the purpose of an Address by the Governor at the commencement of a session, the Governor should have called for a meeting of the Legislature under that Article. If there had been no separate provision for this purpose, he might have taken shelter under the provisions of Article 175. But there is a specific provision for this purpose under Article 176 which occurs immediately after Article 175. Article 175 confers power on the Governor only to require the attendance of the Members of the Legislature on the occasion of his Address. So far as his Address at the commencement of a session is concerned, the relevant Article is Article 176 (1) which says—

> ' At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly or, in the case of a State having a Legislative Council, both Houses assembled together and inform the Legislature of the causes of its summons.'

9–10 a.m. The point which I wish to stress is this. In view of what I have just now said the session of this House commences only to-day and has not at all commenced on Saturday. If only you go through the notice issued to us by the Assembly Secretariat, this point will be made clear. One notice says that the Governor will address both the Houses on the 7th March and for that purpose the attendance of the Members is required. The other notice says that under Article 174 of the Constitution the Governor has summoned the Assembly to meet at 8-30 a.m. on Monday, the 9th March 1953. The Hon. Leader of the House referred to Article 175. I say it is misleading. Here we see that we have been summoned

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under Article 174 under a specific notice. If they say that the Constitution is wrong, I have the least objection. But when a definite procedure is laid down under the Constitution, we ought to follow it. The notice sent to the Members for attending day before yesterday's meeting was under no Article whatsoever. If it was sent under some Article, it is all right. As it has not been done, it was something like an ordinary public meeting. That is why I say that the session of the Assembly commences only to-day and so according to Article 176 (1) the Governor must address this session, because this Article says, 'At the commencement of the first session of each year, the Governor shall address the Legislative Assembly . . .' So we cannot continue this session without the Governor's Address, and this session must be stopped immediately. A fresh meeting of the Assembly has to be called after following the correct procedure as laid down in the Constitution."

MR. SPEAKER :—" Under Article 212, technical irregularities have to be ignored."

* SRI VAVILALA GOPALAKRISHNAIAH :—" Article 212 (1) says, 'The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.' That is true. When it goes to a court of law, the validity of the proceedings cannot be questioned. But, here we are still proceeding and have not completed the procedure. I would even state that we have not yet started to proceed and at this stage if a constitutional irregularity is pointed out, is it not but right that it should be looked into and the irregularity rectified? Let us proceed in a constitutional manner. Let the Governor address the Legislature and give the causes for summoning the Legislature. If we proceed with our business after the Governor's Address, it will be all right. Our Constitution has been framed by elders and I think it will be agreed on all hands that it has to be treated as very sacred. If we have an iota of respect for our Constitution, if we have some regard for it and if we want to have constitutional democracy, I beg this House to stop its deliberations at once and meet again after adopting the constitutional procedure. I was reminded of Article 212 by the Hon. Speaker. But that Article comes in only after the mistake has been committed, whereas in the present instance I want that mistake not to be committed and nothing but constitutional procedure should be followed."

MR. SPEAKER :—" The hon. Member is repeating the same points. I have already allowed him enough time. Let him try to finish soon."

* SRI VAVILALA GOPALAKRISHNAIAH :—" I will try to finish in a few minutes, Sir. I appeal to the Chair and the hon. Members not to take shelter under Article 212. Let us adopt the correct and constitutional procedure. Let us follow the procedure laid down in our Constitution. If we continue this session

to-day, we will be following an illegal and unconstitutional procedure. I request that further deliberations may stop immediately and the Governor may please summon a fresh session of the House. Thank you, Sir."

* SRI P. RAMAMURTHI :—" Mr. Speaker, Sir, the point at issue is the question of regularizing the procedure and not allowing things to be done in an unconstitutional way. So, it is a constitutional question in one way. We have a Constitution and even inside this House, we have to follow the procedure laid down in it. No doubt Article 212 says that ' the validity of any proceedings in the Legislature of a State shall not be called in question.' True, it cannot be questioned in a court of law. Nonetheless, it also entails on us the responsibility to see that we follow the procedure laid down by the Constitution. No doubt under Article 175 of the Constitution, the Governor can summon both the Houses together. But the confusion in the Hon. Finance Minister's mind is this. He confuses the question of summoning the Assembly itself and the question of summoning both the Houses. The Governor can specifically summon both the Houses under Article 174 only, which says, ' The House or Houses of the Legislature of the State shall be summoned to meet . . .' But the Governor can address the Houses only under Article 175, or Article 176. He can address the Houses at any time and at any place he likes. Whether it is at the commencement of the session, or at different times, it is immaterial. What I wish to point out is that in the present instance, the correct procedure has not been followed with regard to the summoning of the Legislature and the Governor's Address. That being so, the point to be considered is whether we can transact our business just now."

THE HON. SRI C. SUBRAMANIAM :—" The point at issue is this. Both the Houses were summoned under Article 174. But for the purpose of the Address by the Governor, to the Members of both the Houses assembled together summonses were issued under Article 175. So we have issued summons under both the Articles. The hon. Member's point is that it should not have been issued under Article 175 and that it should have been issued under Article 176. That is the main point of the hon. Member. I suppose the hon. Leader of the Opposition is quite satisfied with what I have said just now and so there is absolutely no substance in the point raised by the hon. Member."

* SRI VAVILALA GOPALAKRISHNAIAH :—" I have to clarify some of the points mentioned by the Hon. Leader of the House. He has not followed my point. I don't know whether I am intelligent enough to explain my point to him. The point at issue is this. The session commences to-day and has not commenced the day before yesterday. Article 176 (1) says that at the commencement of the first session of each year the Governor *shall* address the Legislative Assembly. The word ' shall ' is there. So he must address the House before the commencement of the session. As the session commences to-day, if he does not address

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the House to-day, and if we proceed to transact business according to our will, then we will be following a very wrong and unconstitutional procedure. Even ten days back, I referred the matter to the Assembly Secretariat and requested them to rectify this defect. They have not rectified it. Now that we have an opportunity to rectify the same, I appeal to the Hon. Speaker as well as to hon. Members to correct the mistake and proceed in a constitutional manner.''

MR. SPEAKER :—'' The Chair has nothing to do with this matter. It is the Governor who summons the Legislature. I have already told the House that under Article 212, even if there was an alleged irregularity of procedure, the proceedings can continue.''

* SRI K. VINAYAKAM :—'' The Governor's Address is different from the ordinary proceedings of the House. Article 212 cannot, therefore, apply to this case. I do not question the procedure adopted here but I must point out that the Governor's Address does not form part of the proceedings of the House.'' 9-20 a.m.

MR. SPEAKER :—'' There is no use of raising this point because the Chair has nothing to do with that.''

SRI P. RAMAMURTHI :—'' I would like to raise another point. Rule 5 provides that the Governor's Address must be followed by a discussion on that.''

MR. SPEAKER :—'' Not immediately. The Constitution of India has since undergone a change in respect of this rule.''

III.—PANEL OF CHAIRMEN.

MR. SPEAKER :—'' I have to announce to the House that under rule 15 of the Madras Legislative Assembly Rules, I have nominated the following Panel of Chairmen for the third session :—

(1) Srimathi Thamma Kotamma Reddi,
(2) Sri R. V. Swaminathan,
(3) Sri P. Thimma Reddy, and
(4) Sri C. Kandasami.''

IV.—GOVERNMENT RESOLUTION.

RATIFICATION OF AMENDMENT OF ARTICLE 81 OF THE CONSTITUTION (COMPOSITION OF THE HOUSE OF THE PEOPLE).

* THE HON. SRI C. SUBRAMANIAM :—'' Mr. Speaker, Sir, I move—

'*That this House ratifies the amendment of Article* 81 *of the Constitution proposed to be made by the Constitution (Second Amendment) Bill*, 1952, *as passed by the two Houses of Parliament*,'

Hon. Members are aware that the representation in the House of the People is governed by Article 81 of the Constitution, so far as